United States Court of Appeals

for the Second Circuit

REPLY BRIEF

No. 74-2284

REPLY BRIEF FOR PETITIONERS

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

B.

No. 74-2284

THE SOCIETY OF THE PLASTICS INDUSTRY, INC., et al.,

Petitioners,

v.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
UNITED STATES DEPARTMENT OF LABOR;
PETER J. BRENNAN, SECRETARY, DEPARTMENT OF LABOR;
AND JOHN STENDER, ASSISTANT SECRETARY
FOR OCCUPATIONAL SAFETY AND HEALTH,

Respondents,

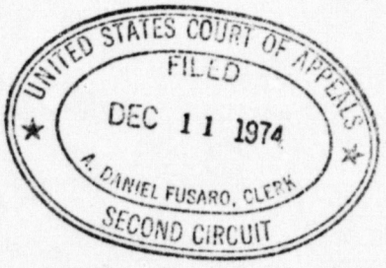
FIRESTONE PLASTICS COMPANY, A DIVISION OF
THE FIRESTONE TIRE & RUBBER COMPANY,

Intervenor, and

INDUSTRIAL UNION DEPARTMENT, AFL-CIO, et al.,

Intervenors.

On Petition For Review Of An Order Of
The Occupational Safety and Health Administration,
United States Department of Labor



Martin I. Shelton
Shea, Gould, Climenko & Kramer
330 Madison Avenue
New York, New York 10017

Jerome H. Heckman
Keller and Heckman
1150 17th Street, N.W.
Washington, D. C. 20036

Attorneys for Petitioners

Of Counsel:
Joseph E. Hadley
Peter Thomas Smith
Keller and Heckman
1150 17th Street, N.W.
Washington, D. C. 20036

December 11, 1974

5

REPLY BRIEF FOR PETITIONERS

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 74-2284

THE SOCIETY OF THE PLASTICS INDUSTRY, INC., et al.,

Petitioners,

v.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
UNITED STATES DEPARTMENT OF LABOR;
PETER J. BRENNAN, SECRETARY, DEPARTMENT OF LABOR;
AND JOHN STENDER, ASSISTANT SECRETARY
FOR OCCUPATIONAL SAFETY AND HEALTH,

Respondents,

FIRESTONE PLASTICS COMPANY, A DIVISION OF
THE FIRESTONE TIRE & RUBBER COMPANY,

Intervenor, and

INDUSTRIAL UNION DEPARTMENT, AFL-CIO, et al.,

Intervenors.

On Petition For Review Of An Order Of
The Occupational Safety and Health Administration,
United States Department of Labor

Martin I. Shelton
Shea, Gould, Climenko & Kramer
330 Madison Avenue
New York, New York 10017

Jerome H. Heckman
Keller and Heckman
1150 17th Street, N.W.
Washington, D. C. 20036

Attorneys for Petitioners

Of Counsel:
Joseph E. Hadley
Peter Thomas Smith
Keller and Heckman
1150 17th Street, N.W.
Washington, D. C. 20036

December 11, 1974

TABLE OF CONTENTS

ARGUMENT

TABLE OF AUTHORITIES

Cases: Page

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 74-2284

THE SOCIETY OF THE PLASTICS INDUSTRY, INC., et al.,

Petitioners,

v.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
UNITED STATES DEPARTMENT OF LABOR;
J. BRENNAN, SECRETARY, DEPARTMENT OF LABOR;
AND JOHN STENDER, ASSISTANT SECRETARY
FOR OCCUPATIONAL SAFETY AND HEALTH,

Respondents,

FIRESTONE PLASTICS COMPANY, A DIVISION OF
THE FIRESTONE TIRE & RUBBER COMPANY,

Intervenor, and

INDUSTRIAL UNION DEPARTMENT, AFL-CIO, et al.,

Intervenors.

On Petition For Review Of An Order Of
The Occupational Safety and Health Administration,
United States Department of Labor

REPLY BRIEF FOR PETITIONERS

ARGUMENT

I

THE THRUST OF RESPONDENTS' AND INTERVENORS' BRIEFS IS TO THE EFFECT THAT THE COURT, BY ITS DECISION HERE, SHOULD LEGISLATE THE FEASIBILITY REQUIREMENTS FOR STANDARDS OUT OF THE STATUTE

A review of the Briefs filed on behalf of the Respondents and Intervenors in the instant case highlights one salient fact. Both parties, faced with the necessity for dealing with the Department of Labor's obvious failure to comply with its statutory mandate to take into account technological and economic feasibility, have simply decided to try to change the law in their writings, or to finesse this basic issue through a most exquisite and appealing device, i.e. seeking to focus the Court's entire attention on exceedingly lengthy discussions of the health issue.

Respondents and Intervenors are virtually conceding that a new meaning of feasibility must be legislated by this Court to sustain their position. Taking into account the Occupational Safety and Health Administration statements quoted immediately hereinafter, the statutory language, and legislative history, as well as the cases decided to date (See Petitioner's Brief in No. 74-2284 at pages 13-16), we can find no support for the Government's contention to the effect that the statutory requirement for a standard that is technologically and economically feasible can be met by the mere pronouncement that such a standard is

necessary in light of the Government's view of medical evidence. Had this been the intent of Congress, there would have been no need for the Javits Amendment.[1/] Stated very succinctly, what the Government and Intervenors are really advocating here is that the technological and economic feasibility requirements of the statute be repealed by this Court. This is all but said forthrightly in the Respondents' Brief where the following sentence appears (p.80): "Clearly cancer materially impairs health and the Secretary is to promulgate the best available standard--not simply one based on the best available technology--to counter the hazard." (Emphasis supplied.)

What Respondents and Intervenors would have the Court believe is that OSHA's task in setting a standard is to address itself myopically to health considerations; Respondents contend the Administration has the power to elevate a desire for innovation, and the attaining of objectives which a carefully developed record (including the Government's own commissioned Report prepared by Foster D. Snell, Inc.) shows are unattainable, to the status of law. Both the Secretary's and Intervenors' Briefs concede that the one part per million exposure

1/ See Brief for Petitioner at 15.

Standard is not presently attainable and may well be indefinitely unattainable. Despite conceding this point, and without so much as rationalizing why the Snell Report was ordered if technological feasibility as it is commonly understood may be ignored, they skip over this critical and determinative statutory bar to irrational standards-making. Instead of facing this insurmountable issue, they present industry and labor with a Standard that can only be met by extensive and perhaps permanent use of respiratory equipment. At best, this is a result all parties agree was not really contemplated when the Standard was proposed, nor during the course of the administrative proceedings. Proof of this fact can again be gleaned from an opening statement made by Dr. Daniel Boyd, Director of the Office of Standards Development of the Occupational Safety and Health Administration:

> "We recognize that respirators are not popular with employees and that employees may have difficulty wearing them 40 hours per week. However, in balancing the feasibility of engineering controls and workpractices, respirators, and the hazards associated with vinyl chloride, we feel that respirators are a necessary temporary means of avoiding employee exposure to vinyl chloride." (JA 178) (Emphasis supplied.)

To try to put the situation back into perspective, a number of points in the Respondents' and Intervenors'

Briefs must be subjected to critical analysis. The most important purpose and major emphasis here, however, has to be to refocus the Court's attention on what the law demands. Since Respondents and Intervenors have obfuscated the basic legal question at hand by a lengthy and largely irrelevant fact resitation, we must return once more to the fundamentals.

Perhaps the simplest way to do so is to set forth again precisely what Dr. Boyd stated at the very commencement of the agency's oral hearings which preceded this appeal. Dr. Boyd summarized OSHA's statutory obligations succinctly and accurately by stating, in pertinent part, as follows:

> "Some commentors have asked what 'feasible' means. Within the terms of this proposal, feasibility refers to both technological and economic considerations. On the one hand, does the technology exist that would allow the employer to achieve compliance and, on the other, what are the costs associated with the application of these technologies. It is both proper and necessary that we consider these matters in our deliberations. We solicit your assistance in addressing these complex issues." (JA 178)

Dr. Boyd's statement lends clarity where the Briefs of Respondents and Intervenors attempt to create confusion. More than this, the Boyd statement, like the Statute, the legislative history and the case law make it obvious that OSHA was not and is not free to express its hopes in a Standard which will determine whether or not businesses,

jobs, and related industries can continue to exist. This is precisely what OSHA has done in adopting a Standard that calls for the imposition of its basic one ppm exposure criteria which industry, and now the Departments of Labor and Justice and the Intervenor labor organizations concede cannot be met.

Furthermore, the attempt to justify the imposition of this basic criterion by noting that even though it cannot be met, the problem can be handled by the use of respirators is an especially unconscionable decision. This is true because the only witnesses who testified with authority on the respirator issue indicated that their use should be confined to emergencies to the greatest extent possible, and the Government's witness-in-chief characterized respirators as "instruments of torture." Yet Respondents now make the projected use of respirators the escape valve which justifies the imposition of the concededly unmeetable basic exposure standard.

If one accepts the statements in Respondents' and Intervenors' Briefs and recognizes the universal concession that the one ppm criterion is a hope, not a realistic possibility, one can only wonder why the OSHA Standard does not simply order the wearing of respirators full-time in

all PVC and VCM plants, instead of complicating the issues by adopting extensive provisions predicated on the assumption that the one ppm concept can be met by engineering controls.

II
THE NEW POSITION OF THE GOVERNMENT APPEARS INCONSISTENT WITH THE CONTEMPLATION OF THE SECRETARY RELATIVE TO THE USE OF RESPIRATORS, AND REINFORCES PETITIONERS' CONTENTION THAT THE RECORD IS INADEQUATE TO SUPPORT THE CONCLUSION THAT VIRTUAL FULL-TIME USE OF RESPIRATORS IS TECHNOLOGICALLY FEASIBLE

A severe difficulty faced by Petitioners in dealing with OSHA's Standard, and now with the Briefs of Respondents and Intervenors, relates to something of an element of surprise that has been brought into play. Led to believe by previous court decisions, OSHA's actions in the past in such cases as the asbestos case (Industrial Union Dep't, AFL-CIO v. Hodgson, 499 F.2d 467 (D.C. Cir. 1974)), and the tenor of the OSHA Standard as proposed, as well as its oral testimony in this proceeding, industry moved forward with its case in all good faith. In so doing it assumed OSHA would act in accordance with the Statute on the feasibility question. Instead, OSHA has moved in the new, unlawful manner previously discussed and thereby raised the following awkward problems:

1. The industry is moving as rapdily as it can to reduce vinyl chloride exposure levels in the workplace but cannot possibly meet a 1 ppm time weighted average in the foreseeable future. At the hearings, and since, industry has proposed what it considers to be the lowest attainable levels by the various segments of the industry involved. Moreover, the Record makes it quite clear that, the doubt about the health issue notwithstanding, the exposure levels and graduated step-down plan advocated by industry seem reasonable if technological feasibility is to be afforded any weight at all. No substantial evidence of Record supports the contention or theory that OSHA should legislate what amounts to illusory exposure levels as a Standard, thereby actually mandating the use of respiratory equipment in a way never originally contemplated.

2. The use of respiratory equipment within the new framework presented by OSHA's action in developing the impractical basic exposure

standard makes it completely clear that the respirator issue has not been adequately explored by the agency. This is obvious since the only substantial evidence of record is to the effect that (1) "We recognize that respirators are not popular with employees and that employees may have difficulty wearing them 40 hours per week," (see testimony of OSHA's Boyd, JA 178), (2) respirators are, at best an "instrument of torture," (OSHA witness Hyatt, JA 303), and (3) the extensive use of respirators can delimit employee eligibility (JA 532) and cause immediate disease (JA 534, 724-727). The Government attempts to counter the general opposition to respirator use by citing inappropriate instances where such use has been required and by quoting a total of two employees who are also local labor union officials (Respondents' Brief, p.71). The fact is that the Record is insufficient to draw the conclusion that respirators may be employed as a way of life in PVC plants where mobility over extensive areas; the

performance of tasks requiring the climbing of ladders and the walking of catwalks is routine; and verbal communications are essential for the performance of duties and human safety. Had the Government really contemplated that it would ultimately ignore Dr. Boyd's pronouncement that technological feasibility would be taken into account, the Record would contain additional information on respirator use which might be more instructive.

Even more important, and again because of the framework within which the issues were voiced at earlier stages, the Record gives no support for any conclusion as to whether workers will be willing to accept employment in vinyl chloride, polyvinyl chloride, or any other plant where respirators must be worn and constant reminders are posted to provide the impression that a cancer suspect agent pervades the area. Before a very real chance is taken that it will be wholly infeasible to operate the entire polyvinyl chloride industry because of possible employee resistance to the new working conditions, it would appear the better part of wisdom to remand this

case so that further evidence on this aspect of the feasibility issue can be adduced. The alternative is to suffer the possible shutting down of the industry due to inability to obtain a workforce and the economic consequences that would flow along the lines predicted by the A. D. Little and General Motors testimony.[2/]

III
RESPONDENTS' AND INTERVENORS' BRIEFS SUPPORT PETITIONERS' CONTENTION THAT THE STANDARD'S COVERAGE OF FABRICATORS IS UNNECESSARY AND, A FORTIORI, UNLAWFUL

Again taking into account the wholly unanticipated way in which the Government would by-pass the technological feasibility issue in reaching its basic exposure limitation conclusion, reorientation is necessary--and should be accomplished by remand--to place the so-called "fabricator problem" in a different perspective. This is another situation where there is little disagreement on the facts. All parties have enunciated the view that the Record supports the conclusion that fabrication operations pose essentially no problem requiring the imposition of the full force of a very comprehensive (and most expensive to comply with) Standard.

2/ JA 2585 et seq. and JA 2355 et seq., respectively.

Inasmuch as the Secretary decided to pitch his decision on an extra-statutory interpretation of feasibility generally, it is not surprising that he also chose to ignore the plight of small fabricators on the economic feasibility question entirely. The Record, and now even the Briefs of all the parties, make it quite clear that (1) there is no need for applying the same Standard to fabrication operations;[3/] and (2) the imposition of all the requirements such as the purchase and retention of respirators for all employees, regular reporting, medical examinations, extensive monitoring, etc., on fabricators is unnecessary and, in many cases, economically infeasible. (See Petitioner's Brief in No. 74-2284 at p.29 and note 46)

Remand of the case on this issue alone remains well warranted, as urgently advocated in the Brief of this Petitioner, pp. 27-29.

IV
RESPONDENTS' ESTIMATE OF HAZARDS OF LOW LEVELS OF VC EXPOSURE IS NOT MERELY OVERSTRESSED AND PARTIALLY IRRELEVANT VIS-A-VIS PETITIONERS' MAIN CONTENTIONS, IT ALSO INACCURATELY PORTRAYS IMPORTANT EVIDENCE OF RECORD

The Respondents' Brief argues extensively that vinyl

3/ On page 28 of Respondents' Brief, it is conceded that exposure "...is invariably brought within permissible bounds by increased ventilation." Obviously, then, for fabricators all that is really required is a simple ventilation standard. (See p.28 of Respondents' Brief and citations thereon.)

chloride is a hazard, a point which is not in dispute. The point which apparently will remain in dispute for some time is whether an attainable and feasible level of exposure constitutes an unacceptable hazard. The Government relies heavily on data obtained from animal experiments, particularly data provided by Industrial Bio-Test Laboratories, to show that vinyl chloride is extremely hazardous at levels at least as low as 50 parts per million. Specifically, on page 51, Respondents' Brief states "[t]he latest results of the Bio-Test study, submitted August 16, 1974, revealed that of 200 mice exposed to 50 ppm of vinyl chloride for eleven months, 100 died."

If this species of mouse were suitable for assessing the hazards to man, then it could be anticipated that one half the working population, which in the past had been exposed to levels far higher than 50 parts per million, would have died and that vinyl chloride would have been recognized years ago as one of the more acutely toxic chemicals. Furthermore, the National Cancer Institute, in protocols for determining whether a chemical is a carcinogen, requires that the chemical be tested in a species or at an exposure level at which it does not

evidence acute toxicity. Without belaboring the point, it is obvious that continuing to rely on the Industrial Bio-Test data on mice, and refusing to give any weight to such data as that presented by Dow,[4/] provides a distorted and grossly exaggerated projection of the toxicity of vinyl chloride monomer to humans.

The Respondents also quote authorities such as Dr. Frank Standaert on page 58 of their Brief to the effect that "...there is only one prudent course to follow: assume that man is at least as sensitive as the most sensitive mamalian [sic] species. This assumption is universally applied in assessing the toxic hazard of materials to man."

In general, this principle is sound and widely applies when, as is preferred, the hazard of a material is being investigated before there is any human exposure. In this case, however, there <u>has</u> been human exposure and the evidence is clear that in the human population the only cases of angiosarcoma about which there is no dispute as to occupational origin have arisen among men who have been exposed for long periods of time to high levels of vinyl chloride, often exceeding 2000 parts per million for extensive intervals.

4/ JA 1127-1308 and 2919-2946.

With respect to human experience, Respondents' Brief (p.56) refers to a Dow Chemical study of 335 employees as suffering from the failing of excluding a portion of the population. No attention is given, however, to a complete Dow report (JA 1282-1308) that covers the total cohort of 594 employees of which only one was not successfully traced. This survey is of particular significance because Dow had extensive measurements of VCM exposure levels for these employees and so was able to correlate measured exposure with health and mortality evidence. The results summarized in the Joint Appendix at 1293 show no adverse mortality effects of any sort where levels of VCM were controlled below 200 ppm TWA.

Respondents' Brief at page 54 also cites Drs. Kotin and McBurney out of context as having doubts as to whether current employees they examined had angiosarcoma whereas the doctors had concluded that within the limits of available diagnostic techniques they had none. Indeed, Dr. McBurney testified (JA 1313) that in a total cohort of 709 former employees who may have been exposed to VCM for periods of one year or more (with only one missing person), no cases of angiosarcoma have been detected among either the living employees nor among the ten deceased employees.

The Tabershaw-Cooper results have been criticized (p.55 of Respondents' Brief) because "[o]nly 10% of those studied had 20 or more years of exposure to vinyl chloride." In light of the fact that approximately 8400 men were studied, this still includes a total of over 800 men with exposures of 20 years or more. If the hazard to the entire working population exposed to vinyl chloride were as great as the hazard that clearly existed in a few of the older plants, far more cases of angiosarcoma would have appeared in the Tabershaw-Cooper survey.

Also presented as evidence during the Hearing, but cavalierly dismissed in Respondents' Brief, as it was by the Secretary of Labor, is the evidence that no angiosarcoma deaths have been discovered in most of the plants that have been operating for 10 years or more. Indeed, such deaths have appeared to be concentrated, and none at all have been found in 16 locations. Although levels of exposure were not known with certainty in any of the locations, the Record has shown that the odor of vinyl chloride was frequently detected in these older plants, and evidence in the Record shows that the level of olefactory detection of vinyl chloride by people accustomed to working with the material is in the range of 2000 parts per million or higher.

It would appear, therefore, that the cases of human angiosarcoma have occurred in plants where exposure to vinyl chloride monomer was often as high as 2000 parts per million; and even here, it did not occur in all plants which may have operated at levels that high in the early days of the industry.

It should be noted that experience with other carcinogens and animal data on VCM often show that the response is dose-related. In the present context, angiosarcoma has developed in only a few of those exposed to levels in excess of 2000 ppm for extensive periods of time. This, taken with the evidence presented by Dow that exposures below 200 ppm show no adverse effects in humans, support the thesis that, for humans, occupational exposure to concentrations below 25 to 50 ppm should pose no unacceptable hazard.

Prudence, animal experience and human experience all dictate that the level of vinyl chloride in the working atmosphere should be as low as feasibly can be attained. However, the experience of human populations as distinguished from the theoretical extrapolations based on animal data, show that there is no evidence of human risk at levels below 200 parts per million and certainly the levels which the records show are attainable and feasible would provide an ample margin of safety for humans.

V
RESPONDENTS' BELATED REACTION TO PETITIONERS' STAY REQUEST AND SUBSEQUENT MOTION IS INADEQUATE TO PROTECT THE SUBSTANTIAL RIGHTS OF INDUSTRY AND THE PUBLIC; THE "MOTION FOR STAY PENDENTE LITE" SHOULD BE GRANTED

After receiving absolutely no response to a stay petition filed with the Secretary on November 5, 1974, on December 3, 1974, Petitioner, The Society of the Plastics Industry, among others, filed a Stay Motion with this Court. The SPI Motion was based primarily on the fact that it had determined the industry would not be able to comply with the terms of the vinyl chloride Standard because an inadequate supply of approved respiratory protective devices is available, if for no other reason. In the Brief, Respondents countered the industry stay requests on the basis that there is an adequate statutory remedy available, that is, the Petitioners should simply apply to the Secretary for temporary variance orders.[5/]

In order to make this appear an even more appealing remedy for Petitioners' dilemma, Counsel for the Government has now informed the Court that he is "authorized to state" that, under a new document yet to be published in the Federal Register, applications for temporary variances submitted

---

5/ Brief for Respondents at 1 and 106-108.

before December 23, 1974 will be considered on an expedited basis.[6/]

The fact is that the Secretary's commitment to receive and act upon variance applications gives little reason for industry to move with any sense of security. Even the peculiar way in which what appears to be a completely unique procedure has been communicated creates difficult problems. For example, it is hard to see how the tremendous number of companies that might require variances under the government plan can possibly receive word about the availability of a special procedure for this purpose in time to avoid their being foreclosed by the arbitrary December 23 deadline incorporated in the authorized announcement.

Even more significantly, the Secretary's proposal to handle this situation by the variance process presents the following complications or potential complications which industry, and particularly the fabricators (of which there are about 1000 which might have to file), should not have to face one by one while this appeal is pending:

1. The filing of any request for a variance is by no means a pro forma matter, nor is there any pre-assurance of such a

6/ Id. at 108-109.

request being acted upon in a timely or favorable fashion. This is especially the case when so many companies are facing a January 1 deadline.

2. It is impossible to understand what useful purpose would really be served in either the public or private interest by the handling of the stay problem on a piecemeal basis--applications by one company at a time, and case-by-case action on each application. The only conceivable reason for dealing with the matter in this way is presumably so that OSHA can make value determinations and reject some applications. Rejection would then cast the burden on the applicant to move for relief in the Courts, further complicating the entire situation unnecessarily.

3. Particularly as regards the fabricators, the procedure the Secretary has proposed would be wasteful of scarce resources and leave many small companies in a position where they would be unable to determine what will ultimately be required of them.

In short, the "new" proposal of the Secretary offers nothing in the way of a palatable substitute for a stay which, it is respectfully submitted, should be granted for all of the reasons outlined (and still pertinent) in the Motion for a Stay Pendente Lite filed with this Court on December 3, 1974.

VI
CONCLUSION

For the foregoing reasons, in addition to those stated in Petitioners' main Brief, the Occupational Safety and Health Administration's Occupational Exposure Standard for Vinyl Chloride which is the subject matter of the instant Petitions for Review, should be reversed and remanded. In the meantime, Petitioners' pending "Motion for a Stay Pendente Lite" should be granted forthwith.

Respectfully submitted,

Martin I. Shelton
Shea, Gould, Climenko & Kramer
330 Madison Avenue
New York, New York 10017

Jerome H. Heckman
Keller and Heckman
1150 17th Street, N.W.
Washington, D.C. 20036

Attorneys for Petitioners

Of Counsel:

Joseph E. Hadley
Peter Thomas Smith
Keller and Heckman
1150 17th Street, N.W.
Washington, D. C. 20036

December 11, 1974

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

The Society of the Plastics Industry, Inc. Petitioner, v. Occupational Safety and Health Administration, United States Department of Labor; Peter J. Brennan, Secretary, Department of Labor; and John Stender, Assistant Secretary for Occupational Safety and Health Respondents.	)	No. 74-2284

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of December, 1974, two (2) copies of the Reply Brief for Petitioners dated December 11, 1974 were served, by hand delivery, upon each of the separately represented parties whose names and addresses appear below:

Honorable Peter J. Brennan, Secretary
United States Department of Labor
14th Street and Constitution Avenue
Washington, D.C. 20037

Honorable John H. Stender, Assistant Secretary
for Occupational Safety and Health
United States Department of Labor
14th Street and Constitution Avenue
Room 3115
Washington, D.C. 20210

Stephen F. Eilperin, Esquire
Appellate Section, Civil Division
United States Department of Justice
Room 3547
Ninth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Henry P. Sailer, Esquire
Allan J. Topol, Esquire
Peter M. Phillipes, Esquire
John Thomas Smith, II, Esquire
Covington & Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006

William V. Kane, Esquire
Marshall Lee Miller, Esquire
Reavis, Pogue, Neal & Rose
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

J. Albert Woll, Esquire
Woll, Mayer & Gold
736 Bowen Building
815 Fifteenth Street, N.W.
Washington, D.C. 20005

George H. Cohen, Esquire
Bredhoff, Cushman, Gottesman & Cohen
1000 Connecticut Avenue, N.W.
Suite 1300
Washington, D.C. 20036

Donald L. Morgan, Esquire
Cleary, Gottlieb, Steen & Hamilton
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036;

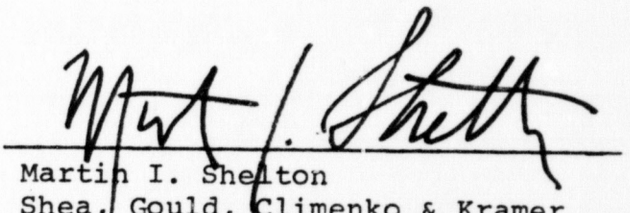
and by certified mail, return receipt requested, upon each of the separately represented parties whose names and addresses appear below:

Patrick F. McCartan, Esquire
James A. Rydzel, Esquire
Jones, Day, Cockley & Reavis
1750 Union Commerce Building
Cleveland, Ohio 44115

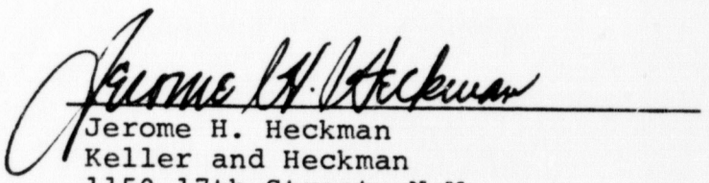
John J. Cassidy, Jr., Esquire
Arthur B. Smith, Jr., Esquire
Vedder, Price, Kaufman & Kammholz
39 South LaSalle Street
Chicago, Illinois 60603

Walter B. Connolly, Jr., Esquire
The Firestone Tire & Rubber Company
1200 Firestone Parkway
Akron, Ohio 44317

Donna Roberts, Esquire
2030 Dow Center
Midland, Michigan 48640



Martin I. Shelton
Shea, Gould, Climenko & Kramer
330 Madison Avenue
New York, New York 10017



Jerome H. Heckman
Keller and Heckman
1150 17th Street, N.W.
Washington, D.C. 20036

Attorneys for The Society of
the Plastics Industry, Inc.

OF COUNSEL:

Joseph E. Hadley
Peter Thomas Smith
Keller and Heckman
1150 17th Street, N.W.
Washington, D.C. 20036

December 11, 1974